



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,356	06/29/2000	Yuri Smirnov	21113-04618	8906

22830 7590 11/01/2004

CARR & FERRELL LLP  
2200 GENG ROAD  
PALO ALTO, CA 94303

EXAMINER
----------

HECK, MICHAEL C

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/608,356

Applicant(s)

SMIRNOV, YURI

Examiner

Michael C. Heck

Art Unit

3623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 70 and 71.

Claim(s) rejected: 35,39,40,50-69 and 72-130.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).  
10. ☐ Other: \_\_\_\_\_

*Susanna M. Diaz*  
**SUSANNA M. DIAZ**  
**PRIMARY EXAMINER**

*Au. 3623*

09/608,356

Continuation of 2 and 5. NOTE: Applicant asserts the examiner did not provide a basis for the rejection of claim 117. In response, Please see page 34-35 of the Final Office Action of 12 August 2004. Applicant asserts that claim 117 has not been amended since last considered by the Examiner. In Response, the examiner notes the claim 117 was the same as previously submitted and canceled claim 33. Claim 117 was submitted and considered new to the Final Action of 12 August 2004. Applicant asserts the rejection of claim 35 in view of art including Dilger is a new ground for rejection. In response and as noted in the Final Action of 12 August 2004, Teresko et al. and Dilger both refer to Calico Technology's Concinity System. Applicant asserts claim 111, 115, and 118 are identical to claims previously canceled in response to a statement by the Examiner that the claims would be allowable if written in independent form. Claims 111, 115, and 118 thus, have not been amended. In response, claims 111, 115, and 118 were canceled, then resubmitted for review and a reference was found to reject the claims. Applicant amended claims 35, 39, 40, 60, 68, 83, 96, 98, 99, 103-107, 110, 111, 115, 117, 118, 121, 125, and 128-130 that raise new issues that would require further consideration and/or search.